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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,995	05/20/2004	Larry P. LaPointe	1202P-000370	8759
27572	7590	07/06/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/849,995

Applicant(s)

LAPOINTE, LARRY P.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 1, line 10, "tends" should be - - tend - -. On page 2, line 2, "retraced" should be - - retracted - -. The applicant should read through the specification and make sure there are no other such typographical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, "the drive shaft" lacks antecedent basis. Applicant claims a "drive rod" on line 4 but then uses the term "drive shaft" on line 5. Applicant is reminded to use consistent terminology throughout the claims.

In claim 2, lines 3-4, "the spring toggle" lacks antecedent basis. Also, what is being defined in lines 3-4 of claim 2?

In claim 4, line 3, should "leg rest" be - - leg rest assembly - -?

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In claim 5, line 3, should "leg rest" be - - leg rest assembly - -?

In claim 7, line 7, "the drive shaft" lacks antecedent basis.

In claim 10, line 3, should "leg rest" be - - leg rest assembly - -?

In claim 11, line 3, should "leg rest" be - - leg rest assembly - -?

In claim 14, line 1, should "drive rode" be - - drive rod - -?

In claim 16, line 5, "the drive shaft" lacks antecedent basis.

In claim 19, line 3, should "leg rest" be - - leg rest assembly - -?

In claim 20, line 3, should "leg rest" be - - leg rest assembly - -?

The aforementioned problem renders the claims vague and indefinite.

Clarification and/or correction is required

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by LaPointe (U.S. Patent No. 5,147,108).

LaPointe teaches an article of furniture having a seat assembly 50 supported from a chair frame 12 and an actuation mechanism 22 for enabling a leg rest assembly

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18 to move between a stowed position and an extended position, the mechanism including a support shaft 76, a drive rod 112 spaced apart from the support shaft 76, and a toggle link 208 rigidly secured to the drive rod 112 wherein the drive rod is received through an aperture formed in the toggle link, a spring assembly comprising: a spring 214 with a first end attached to the toggle link and a second end engaging the support shaft at 219, whereby the second end is slidable along an axis (at bracket 219), defined by the support shaft to align the spring thereon (see column 11, lines 36-39), a member in the form of a hook on the second end of the spring having an inner diameter larger than a diameter of the support shaft, since the hook is large enough to fit around that part of the support shaft, whereby stress on a portion of the spring toggle adjacent the support shaft is to be reduced, consisting essentially of a single spring sized to provide all of an extended biasing force to retain the leg rest assembly in the extended position when the leg rest is in the extended position, whereby the single spring biases the leg rest assembly in the extended position, wherein the single spring is sized to provide all of a stowed biasing force to retain the leg rest assembly in the stowed position when the leg rest is in the stowed position, whereby the single spring biases the leg rest assembly in the stowed position, wherein the single spring is to be positioned relative to the support shaft so that the stowed biasing force is less than the extended biasing force..

Claims 1-15, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by LaPointe (U.S. Patent No. 5,975,627).

LaPointe teaches an article of furniture having a seat assembly 32 supported from a chair frame 22 and an actuation mechanism for enabling a leg rest assembly 28 to move between a stowed position and an extended position, the mechanism including a support shaft 36, a drive rod 80 spaced apart from the support shaft 36,98 and a toggle link 220 rigidly secured to the drive rod 80 wherein the drive rod is received through an aperture formed in the toggle link, a spring assembly comprising: a spring 224 with a first end attached to the toggle link and a second end engaging the support shaft 36 at tab 99, whereby the second end is slidable along an axis (at tab 99), defined by the support shaft to align the spring thereon), a member in the form of a hook on the second end of the spring having an inner diameter larger than a diameter of the support shaft, since the hook is large enough to fit around that part of the support shaft, whereby stress on a portion of the spring toggle adjacent the support shaft is to be reduced, consisting essentially of a single spring sized to provide all of an extended biasing force to retain the leg rest assembly in the extended position when the leg rest is in the extended position, whereby the single spring biases the leg rest assembly in the extended position, wherein the single spring is sized to provide all of a stowed biasing force to retain the leg rest assembly in the stowed position when the leg rest is in the stowed position, whereby the single spring biases the leg rest assembly in the stowed position, wherein the single spring is to be positioned relative to the support shaft so that the stowed biasing force is less than the extended biasing force, wherein the support shaft further comprises a shaft portion where the second end slidably engages the support shaft, the shaft portion including a smooth surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaPointe (U.S. 5,147,108).

LaPointe teaches an obvious use of the structures as claimed.

Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaPointe (U.S. 5,975,627).

LaPointe teaches an obvious use of the structures as claimed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson et al, Harrison, Johnson et al, Johnson, Gall, Preston, Pacitti et al, Ruble, Crum, Pine, LaPointe, Saul et al, LaPointe et al, Habegger et al, Komoroski et al, and Marshall et al, teach recliner chairs that include toggle links and spring mechanisms with one end of the spring rigidly secured to the drive rod but does not teach its second slidably secured to a support shaft.

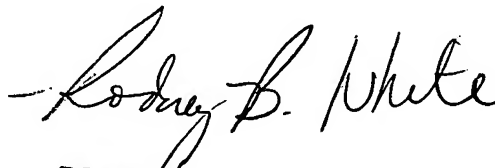
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
June 24, 2005


RODNEY B. WHITE
PRIMARY EXAMINER